

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TONY ALLEN IBSEN,

Petitioner,

v.

WASHINGTON DEPARTMENT OF  
CORRECTIONS,

Respondent.

CASE NO. C11-5987 BHS

ORDER DECLINING TO ADOPT  
REPORT AND  
RECOMMENDATION AND  
DISMISSING PETITION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 6) and Petitioner Tony Allen Ibsen’s (“Ibsen”) objections (Dkt. 7).

On December 1, 2011, Ibsen filed a petition for writ of habeas corpus and discussed a 2005 conviction in Arizona and a 2011 post-conviction hearing in Washington revoking his good time credit. Dkt. 1. On April 18, 2012, Judge Strombom issued a show cause order requesting Ibsen to inform the Court which conviction he was challenging. Dkt. 4. Judge Strombom stated that if Ibsen was challenging the Arizona conviction, then the Court did not have subject matter jurisdiction because Ibsen was no longer in custody for that conviction. *Id.* On April 30, 2012, the show cause order was returned as undeliverable. Dkt. 5.

1 On July 23, 2012, Judge Strombom filed the R&R recommending that the Court  
2 dismiss the petition without prejudice because Ibsen had failed to keep the Court apprised  
3 of his current address. Dkt. 6. On August 1, 2012, Ibsen filed objections to the R&R  
4 and (1) stated that he was challenging the Arizona conviction and (2) provided his current  
5 address. Dkt. 7

6 Although the Court declines to adopt the R&R because Ibsen has provided an  
7 address, the Court will dismiss the petition for lack of jurisdiction because Ibsen is  
8 challenging a conviction for which he is no longer in custody. *See* Dkt. 4 at 2 (citing 28  
9 U.S.C. § 2254(a); *Maleng v. Cook*, 490 U.S. 488, 490 (1989)).

10 Therefore, the Court having considered the R&R, Ibsen's objections, and the  
11 remaining record, does hereby find and order as follows:

- 12 (1) The Court **DECLINES TO ADOPT** the R&R;  
13 (2) Ibsen's petition for habeas corpus (Dkt. 1) is **DISMISSED with prejudice**  
14 for lack of jurisdiction; and  
15 (3) This case is closed.

16 Dated this 6th day of September, 2012.

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19 BENJAMIN H. SETTLE  
20 United States District Judge  
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